UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE TERRORIST ATTACKS ON :   03 MDL 1570 (GBD) (SN)
SEPTEMBER 11, 2001   :

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This Document Relates To:

Havlish, et al. v. bin Laden, et al., Case No. 03-CV-09848
Ashton, et al. v. al Qaeda Islamic Army, et al., Case No. 02-CV-06977
Burnett, Sr., et al., v. Islamic Republic of Iran, Case No. 15-CV-9903
Burlingame, et al. v. bin Laden, et al., Case No. 02-CV-07230
Bauer, et al. v. al Qaeda Islamic Army, et al., 02-CV-07236
O'Neill, Sr., et al. v. Republic of Iraq, et al., Case No. 04-CV-1076
Federal Insurance Co., et al. v. al Qaida, et al. Case No. 03-CV-06978

All other cases against the Islamic Republic of Iran

DECLARATION OF ANDREW J. MALONEY, III IN SUPPORT OF THE OPPOSITION OF PLAINTIFFS' EXECUTIVE COMMITTEE FOR PERSONAL INJURY AND DEATH CLAIMS TO HAVLISH COUNSEL'S "EMERGENCY" MOTION FOR INJUNCTIVE RELIEF [ECF Nos. 6448-6449]

I, Andrew J. Maloney, III hereby declare under the penalty of perjury that the following

is true and correct and in my personal knowledge:

1.   I am a partner at the law firm of Kreindler & Kreindler LLP and currently serve as

Co-Liaison Counsel on the Plaintiffs' Executive Committee for Personal Injury and Death

Claims ("PEC"), and submit this declaration in support of the PEC's opposition to the *Havlish*

counsel's "emergency" motion for injunctive relief.

2.   On October 2, 2019, both of the Plaintiffs' Executive Committees (the PEC and

the Plaintiffs' Executive Committee for Commercial Claims, collectively "PECs"), in

compliance with the Court's Order (ECF No. 5180), wrote to *Havlish* counsel and requested an

opportunity to meet and confer. To foster a productive meeting, the PECs asked that *Havlish*

counsel, in advance of the meeting, provide copies of its supporting documentation for time and expenses. Attached as Exhibit A is a true and correct copy of the October 2, 2019 Email and Letter from the PECs to *Havlish* counsel. *Havlish* counsel did not provide the requested documentation.

3. On November 5, 2019, I attended a meet-and-confer held at the offices of Kreindler & Kreindler LLP. Present at the meet and confer were multiple counsel representing the *Havlish* plaintiffs and multiple members of the PECs and other counsel working in conjunction with the PECs. During those discussions, the PECs asked *Havlish* counsel to produce their time records relating to their efforts to procure the initial default judgment against the Islamic Republic of Iran in this MDL. They stated that they would not do so and, instead, demanded time records from the forms working with the PECs. At that meeting, the PECs also asked *Havlish* counsel if they had maintained contemporaneous time records. None of the *Havlish* counsel affirmed that they had contemporaneous time records, and some of them admitted that they did not.

4. *Havlish* counsel was also asked why they had decided to increase their fee demand from 8% in 2016, five years after the Iran default, to 12% in their 2019 motion. They made no attempt to justify the increase and instead made clear that as far as they were concerned, it was now a new negotiating starting point.

5. The PECs followed up with *Havlish* counsel after the meet-and-confer in an attempt to resolve issues, again asking for contemporaneous time records. The PECs explained that such back-up documentation of the *Havlish* counsel's collective investment in achieving the default judgment against Iran (both time records and out-of-pocket expenditure) was necessary

pursuant to the September 30, 2019 Order. *Havlish* counsel would not provide that information

and instead demanded a mutual exchange of information on time, expenses, recoveries, and fees.

6.   Attached as Exhibit B is a true and correct copy of the chart that accompanied an

email from *Havlish* counsel to the PEC on August 31, 2020.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury under the laws of the

United States of America that the foregoing is true and correct.

Executed: New York, NY   /s/
              September 28, 2020   Andrew J. Maloney, III